

April 23, 2004

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Via Electronic Filing

**Re: Provision of Directory Listing Information under the Telecommunications Act of 1934,
As Amended; CC Docket No. 99-273**

Dear Ms. Dortch:

This letter is submitted on behalf of our client, LSSi Corp. ("LSSi") and responds to the April 7, 2004 *ex parte* letter from Ann D. Berkowitz of Verizon in the above-reference proceeding ("Verizon April 7 *ex parte*") insofar as that letter relates to "CNAM"¹ and CNAM-related privacy issues. As LSSi explained in our meeting with the staff of the Wireline Competition Bureau on April 13, 2004, the Commission should reaffirm its decision in the now-three-year-old *Directory Listings Order*² that Directory Assistance ("DA") listings, once obtained, may be used for "any lawful purpose."

In our meeting with Bureau staff on April 13, we addressed in some detail the arguments set forth by BellSouth in a February 13, 2004 *ex parte* letter. We replied to BellSouth's arguments seeking to restrict resale or multiple use and seeking to limit the use of DA listings for non-DA purposes, such as directory publishing or sales solicitation. We gave some examples of how LEC-imposed tariff or contractual restrictions limit the ability of LSSi to develop and market innovative directory database solutions, but did not address the set of issues surrounding CNAM services in any detail.

LSSi obtains name, address and telephone number data from a wide variety of sources. LSSi adds value to the data by "scrubbing" it to eliminate duplicate listings, misspellings and other errors. This

¹ Verizon refers to CNAM as "calling name and address." LSSi understands that CNAM is shorthand for "Caller Name" or "Caller ID with Name" and that the Verizon CNAM database contains no address information (street, city or state).

² *In the Matter of Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 99-273, First Report and Order, FCC 01-27 (rel. Jan. 23, 2001 ("*Directory Listings Order*"))

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is one of the reasons that LSSi's database has been recognized by the Paisley Group as the "most accurate national database of telephone listings."³

Having created this comprehensive and extremely accurate national database, LSSi would like to use it to offer a wide range of innovative services to its customers. Among the services LSSi would like to offer are services equivalent to, if not better than, the CNAM services offered by ILECs.

CNAM, as described in the Verizon April 7 *ex parte*, relies on a separate CNAM database that is queried by the terminating switch to obtain information needed to display caller name on the display device of a called party who subscribes to CNAM service. Verizon provides access to CNAM on a per query basis only. However, as LSSi mentioned in the meeting of April 13, CNAM service is, for all intents and purposes, a type of reverse directory service. Given the calling party's telephone number, which is passed through the signaling system 7 ("SS7") network using the ISUP protocols as part of the call set-up process, the terminating carrier, call center operator or PBX owner can access any database containing names, and telephone numbers, and cause the calling party's name to be displayed on the called party's customer premises display.⁴ Enhanced versions of CNAM could display additional information about the calling party, perhaps the street address if the database solution customer operated a package delivery, taxi or limo service.

LSSi recognizes that some subscribers have indicated to Verizon or other LECs that they desire that the privacy of their number or name be respected, and not be displayed on the called party's phone or display device. As a responsible member of the business community, LSSi respects the privacy rights of those who do not want their personally identifiable information displayed. But an FCC decision ratifying the unilateral decision of the LECs to prohibit the use of DA data for non-DA purposes, including CNAM, is unnecessary. LSSi can protect the privacy interests of telephone subscribers at the same time that LSSi uses data from DA databases to offer services equivalent to, or better than, Verizon's CNAM.

By way of background, LSSi understands that LECs offer privacy-enhancing "caller ID block" or "CNAM blocking" features to originating callers on a per-line basis as well as on a per-call basis. If a Verizon customer subscribes to the blocking feature on a per-line basis, a "flag" or privacy indicator is stored in the originating switch and then routinely passed as part of the set-up message on every originating call. The terminating switch, which is required to honor that restriction, would not query the CNAM database, but would instead cause a "private/anonymous caller" message to be displayed on the CNAM subscriber's device. If the subscriber invokes blocking on a per-call basis (typically by dialing a "star" code at the beginning of a call), the privacy indicator is similarly passed through the signaling network, and it is the responsibility of the terminating switch to give effect to the request for one call. In either case, there is no privacy indicator in the CNAM database;

³ See Verizon April 7 *ex parte* at n. 2.

⁴ LSSi recognizes that not all call set-up messages are identical. On some calls, the set-up message does not contain the caller's ANI (Automatic Number Identification). In others, a designator other than the true originating number (e.g., the Pseudo-ANI used to identify 911 calls from non-service initialized wireless devices) may be passed through the signaling network for a particular reason. As there is no personally identifiable information passed during such calls, the privacy issues raised by Verizon are not implicated.

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the calling party's instruction that neither number nor name be displayed is always passed in the call set-up messages.

Thus, whenever call set-up is initiated, the display restriction indicator, whether it is associated with the originating party's line or a one-time "flag" created when Verizon's customer dials a "star" code or other unique dialing prefix at the beginning of a call, is passed through the SS7 network to the terminating switch. LSSi is a registered CNAM provider with Telcordia Technologies, and is fully capable of architecting its directory database solutions and the APIs it provides to its customers who design their own applications, to give effect to the restriction. In other words, even where a terminating switch, for whatever reason, ignored a privacy flag and launched a query, LSSi would honor the privacy flags in fulfilling (or more accurately, rejecting) a CNAM request. As a result, any name lookup performed in the LSSi database would not display the calling party name of an individual subscriber.⁵ This is precisely the same privacy-enhancing outcome that would result if the Verizon CNAM database, rather than the LSSi database, had been queried.

None of the tariff or contractual restrictions that Verizon and the other LECs seek to impose on the use of DA listings is necessary to protect the public. This is true not only as a general matter, but, more specifically with respect to CNAM.

Accordingly, LSSi recommends that the Commission deny the pending petitions for reconsideration or clarification and reaffirm the *Directory Listings Order*.

Sincerely,

Gray Cary Ware & Freidenrich LLP

[Filed electronically]

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⁵ The desire of certain governmental and law enforcement agencies to have some particular identification, or no identification at all, displayed on calls originating from those agencies needs to be communicated to all providers of CNAM services. LSSi believes that this can most effectively be achieved through the industry standards process administered by Telcordia, under the FCC's oversight.